ROUGH EDITED COPY

The Arc

People with Disabilities in the Criminal Justice System: Promising Legislation for Statewide Reforms

FEBRUARY 25, 2016

CAPTIONING PROVIDED BY:

CAPTIONACCESS

contact@captionaccess.com

www.captionaccess.com

\* \* \* \* \*

This is being provided in a rough-draft format. Communication Access

Realtime Translation (CART) is provided in order to facilitate communication

accessibility and may not be a totally verbatim record of the proceedings

\* \* \* \*

>> Hello everyone and welcome to the National Center on Criminal Justice & Disability Webinar. I am Ashley and the criminal justice fellow at NCCJD. Before we begin the presentation I would like to cover a few basics especially for those who are new to WebEx. Participants are in listen only mode. If you need help post your question on the side and we will help you. At the end of the session there is a time for questions and you can post them in the Q&A box or and if you don't want your name to show up time in private beforehand. You can e‑mail us as well and if we don't get to the questions during the session we will follow up afterwards. This Webinar is being reported and it will be posted on our website and we will send an e‑mail when it is available.

We have one final request. You mean see a session review after the Webinar, please take five minutes and fund it. This Webinar is funded by the United States bureau of justice. Please welcome the program manager, Leigh Ann Davis for opening remarks.

>> Leigh Ann: Hello, everyone. We are very excited to have you back. We are very excited about this Webinar today. This is the 17th Webinar The Arc's National Center on Criminal Justice & Disability has provided since starting this in January of 2014. Many other topics of Webinars are available on our website if you would like to go back and look. I want to start off thanking our presenters. We have Heather Sachs who is the Vice President of Advocacy and Public Policy, National Down Syndrome Society and we have Patti Saylor.

I want to provide context on why this topic on legislation is so important right now. Some of you play have seen this blog post from Huffington Post that is speaking to the overreaching of the criminal justice system specifically related people with disabilities. In order to break the arrest cycle and end the arresting of people with criminal illness we need to provide this community‑based support. It is not just mental illness but people with intellectual disabilities as well.

When we talk about the emphasis on criminal justice reform and why it is going on, it is important to look at the history of that and realize laws such as three strikes you are out, that created this overcrowding on prisons and jails, has really created the situation where we have to look at other alternatives.

There has been this rise of citizen police interactions around videotaping and we have seen police use of force go up, we have seen in terms of seeing it more in the media. This has really created a true concern amongst society about how often these kinds of situations are happening.

And then some of you may have seen the making of a murder documentary and this is a person with intellectual and developmental disabilities who gave a confession that was clearly cohered.

The president has been focus on this and has a task force on 21st century policing that created a report around these topics. One issue is the focus is not on both mental illness and ID when you look at brain‑based but it is more on mental health. We are trying to look at ways we can focus also on intellectual developmental disabilities in these reform measures.

Another issue is bipartisan coalitions. This is happening at the federal level where there is a focus on reducing mass incarceration through sentence reform. We see these positive changes going on. But what we are really concerned about is making sure any kind of criminal justice reform is inclusive of people with intellectual and developmental disabilities. These are some of the areas we are looking at.

We want to ensure it supports quality education and training for law enforcement. We are excited to have the Maryland team on at a talk about legislation going on there. Also, ensuring individuals have access to criminal justice reform measures so when and if, they are passed in Washington we want people with ID to be included. And we need better ways to identify people with intellectual disabilities within the criminal system whether that victim is a criminal or suspect.

I want to emphasize, and that is why we invited the panel, we want to look at victim and suspect offender issues and the legislation impacting them.

I want to turn it back over to Heather who is going to talk about the exciting next step which is creating a criminal justice and disability legislative database that will house the legislations affecting this population.

>> Thanks, Leigh Ann. It is actually Ashley. We are thrilled to announce NCCJD criminal justice and legislative database is officially being launched today. As you know, if you followed NCCJD this is something we have been working on for a while now. So we are happy it is getting off the ground.

It basically has ‑‑ we have compiled all of the laws for the NCCJD in the criminal justice system for your use. It will allow you to see the laws in your state, if one even exist, and see how similar issues and laws vary. You will be able to look at up category of legislation or state when it is done. Competency and insanity deals with the capacity to be tried or know what they did was wrong at the time they did it, there is a second category that is any special rules in the criminal justice system in that state, three is sentencing including any mitigating factors that make a sentence lower or factors that make it high, four is the death penalty and five is post‑conviction having everything after sentencing so special prison‑parole rules will be there.

We are only including laws that have been enacted and on the books in that state. In the future we are hoping to expand to pending legislation, which is legislation that has not been enacted ‑‑ it isn't the law yet but proposed. That will come into the future. We will be releasing the database in stages over the next month or so.

Today we are launching the pages for Alabama, Arkansas, Connecticut, Georgia, Illinois, Kansas, Maine, Michigan, Missouri, and Nevada. The rest of the states and the category search will be released over the next month.

If you know of laws that exist and you don't see in the database let us know. We want it to be comprehensive as possible and we have searched for every law we could find but I am sure there are more out there so please let us know.

We have also surveyed state legislation that is currently pending as part of the state policy push. We found some that are of interest in the population and community. These are not laws. These are proposed laws pending in the state legislature. So the state house, or senate, or whatever their equivalent /HR‑PBT is. They have to be passed before going into effect or they will not pass and die and not become law.

These are things you can make an impact on it now by working with your local or state chapter of The Arc to advocate for changes.

These are three pending laws. The fair interview act is pending in Florida ‑‑ what it would do is allow a mandatory, someone familiar with special needs, people familiar with the autism spectrum disorder or other disabilities. They would be provided with a parent, or someone familiar with the disability is with the police for any and all communication with the police whether the person is a suspect, offender, or a victim. No matter what the interaction is.

And criminal justice training regarding autistic patients is pending in Massachusetts which would mandate police training on the autism spectrum disorder and how to interact with individuals in such. And in Connecticut they are floating around the idea of a two‑hour police training that also addresses developmental disabilities.

Those are three statutes out there currently being considered. You can get involved and make opinions known. You can find these bills and more on your state's legislature website. If you need help to find them let us know. Your state and local chapter has more information about what is going on in your specific state as well.

So now we will get to the first presentation. The first presentation is Maggie Conroy, Darla Stuart.

Maggie joined the Denver district attorney office in 2003 and a chief deputy district attorney. She worked under a grant and started a specialized sexual assault intake unit with the goal of ensuring the best practices. From 2012‑2015 she super vised the family violence unit. A special unit that prosecutes sexual assaults on children and felony domestic cases.

Diana Goldberg has been the executive director of SungateKids which is children’s advocacy children's organization that provides forensic interview support. She has been pivotal in building SungateKids staff into a confidant and dedicated team of professionals as well as overseeing and developing the growth and development of SungateKids' many programs and services. Diana is a graduate of Columbia University and the University of Law.

Carole O'Shea is the supervisor of the victim service program and supports victims of crimes including those with disabilities. She hosts The Arc of Aurora to train her staff and presents at conferences with The Arc of Aurora. Carole embraces the work necessary to support victims with disabilities. She assists with multiple victims of the Aurora Theater shooting.

And Darla Stuart is the executive director of The Arc of Aurora and has been involved in 25 years. Throughout her tenure, she led local, state and regional activities. She is project supervisor for two DOJ offices of victims of crime projections. The Arc of Aurora has hosted training on creating, understanding and collaboration between disability and organizations on the impact of violence against people with development disabilities. Darla is working on supporting implementation of mandatory reporting of crimes on those with developmental disabilities. I will turn it over to Darla and the rest of her Colorado team with that. Thank you.

>> Darla: Hello, everyone.

>> We can hear you but don't see you.

>> Darla: I will go ahead and move forward. There we go. Perfect.

Thank you, everyone. We have three of the four presenters in my office today so you will see us kind of move the computer back and forth and know that is our technical way of giving you the opportunity to see each of us as we present. Thank you for participating in ‑‑ trying to move the slide.

So, first of all we just wanted to take a moment to recognize that many Americans with disabilities will expect to be victims of crimes. And likely to be victims of multiple crimes. Often times what they don't expect is access to justice. But it doesn't have to be that way. The hearsay exception we are going to speak about today was passed in Colorado. Doesn't guarantee access to justice but it will make a difference and you will have an opportunity to hear about why.

We wanted to make sure we touch upon the training objectives. It is important to provide you with the opportunity to understand what a hearsay exception is, what the forensic interview, why it makes a difference, why it is important for people with developmental disabilities and why you should at least consider starting somewhat of collaboration in your state and looking forward creating that as an opportunity.

So with this I'm going to do that technical slide and move it over to Maggie and she is going to get started.

>> Maggie: Hello. It is a privilege and honor to be here.

In about 2012, I was assigned a case through the Denver district attorney's office involving a 24‑year‑old woman who had both intellectual and developmental disabilities and she had been sexually assaulted by a co‑worker in an elderly care facility where they worked. It took all of five days to target her. He had only worked there five days when he sexually assaulted her.

It was a difficult case from the start but a righteous one. He took her to the home of a friend. She gave us the screen description and they went out and found the location it didn't match the description because of course she had described what was the friend's apartment and not his apartment.

We did have hurdles to get over. But we had a wonderful piece of evidence and that is a very compelling forensic interview she had given to police and that is a recorded interview in which she described in great detail all of the things he had done to her.

The problem was at the time we filled the case a forensic interview was thought admissible with an adult victim under Colorado law. We had a hearsay exception for statements made by children and I will back up a second and explain to you what hearsay is. But that is an out of court statement that is offered for the truth. So for example, if two people are riding in a car and they get t‑boned and someone says the light is green the person who said the light was green has to come into court so they can be cross examined.

However, we do have an exception, an old exception that has been around for children's statements describing sexual abuse or child abuse. The thought being that predators prey on some of the most vulnerable citizens; children. And those kinds of crimes occur under circumstances where the child and perpetrator are alone. And I am not drawing any parallels between people with intellectual and developmental disabilities except to say like children they are more vulnerable and subject to being victimized and can find themselves in much more vulnerable situations.

We got together as a team and this was a case in which collaboration and multi‑agency working together with the finest. I met up with Darla Stuart and the rest of the team through training of people with intellectual disabilities and we had identified that we wanted to get some kind of a hearsay exception put in place for people adults with intellectual and developmental disabilities.

So we were lucky enough and all of the stars lined up where we found a representative, Rhonda fields, who sponsored the bill and the governor signed the bill into law. For anybody who has legal training, I didn't mean to speak down by explaining hearsay but it is a Colorado revised statute 1325‑129.5 and mirrors the child hearsay statute. It was written more broadly but essentially allows when an individual with an intellectual or and developmental disability has been victimized statements describing that victimization or if they witnessed victimization of another are admissible in court.

That law was signed by the governor and in the midst of all of this my court had originally denied us a request to present the victim's statement because the judge was kind but said I don't have a legal mechanism whereby I can do this. We tried under the Colorado residual hearsay even.

The law was signed in the middle of this and took another run at the court and asked the judge if he ‑‑ and he filled a couple months after the hearsay exception became law, we used it and were able to play the video statement.

The beauty of that from a trial standpoint is I was able to play it before the victim testified. So before she even took the stand the jury got to hear this statement she had made within a day or two, actually a weekend after she had been sexually assaulted and the details were so rich and it came alive for the jury. Consequently by the time she took the stand the jury was really pre‑disposed toward hearing her and listening to her. She was nervous. It was a difficult cross‑examination but the jury heard the tape and you cannot cross‑examine with tape. It was a wonderful turn of events this law was passed and we used it at trial and he is serving a life sentence in the Colorado department of corrections.

My time is limited and I just want to say that the message that I would like to give is working together with different agencies and communication and identifying problems and realizing if something is not right in your state and you can get the momentum to help and support and it is group and team effort but at the end of the day we got justice not only in our one case but for future victims of sexual assault or other kinds of sex crimes that individuals that have intellectual or developmental disabilities we have this law in place.

We are here and available to answer questions if anyone has any. Thank you. I turn it over to Diana. Sorry for my awkward here. Here is my slide although I kind of explained it.

>> Diana: I hope everyone can see and hear me all right.

I was introduced already so you know I am the director of SungateKids which is a children's advocacy center. The children's advocacy center movement started 25 years ago with one advocacy center in Huntsville Alabama and we are 800 strong throughout the country. 15 here in Colorado. The idea behind the children's advocacy center is two‑fold.

One it is to provide children with a safe mutual place where they can tell what has happened to them and tell it to people who are trained in how to talk to them and hear them.

The second part of the concept is it makes for a stronger case because it pulls everyone together in the case on the front end. It is our responsibility when a case is brought to us to make sure that all of the players who are involved in the case are there to work on it together. So law enforcement, department of human services, district attorney's office and any advocates that might need to be there as well.

So, a couple years ago Darla Stuart with The Arc of Aurora approached us to do some cross‑training. Again, as Maggie correctly pointed out it is not because people with intellectual and developmental disabilities are like children but rather they are a vulnerable population and one that has traditionally been looked at as not making believable witnesses.

We really wanted to change that perception. Children make great witnesses and people with intellectual and developmental disabilities can make great witnesses as well.

The important thing is how we gather those statements and how we support them in making those statements. So we embarked on this journey to do cross training whereby our forensic interviewers would be trained in how best to talk to people with intellectual and developmental disabilities, how to make accommodations for them, what to do and more importantly in some cases what not to do in the same way we work with children.

On the flip side, we wanted to work with The Arc of Aurora to talk about recognition of sexual abuse, physical abuse, neglect, and those kinds of issues. And to talk about the system and what happens next. What happens when people in these vulnerable populations are victimized?

That is how we began our partnership. Then it grew into working together on this legislation. As Maggie also mentioned there is a child hearsay exception for forensic interviews of children. These interviews are critically important both because of what the children are able to disclose and also because of the way in which the information is obtained.

One of the critical pieces of a forensic interview is that the interviewer does not ask leading questions. We can ask direct questions but we are very, very careful not to ask leading questions. The reason that we have our own forensic interviewers on staff is because long‑enforcement and human service agencies don't always have the resources to have their own people trained in how to conduct these kinds of interviews appropriately.

So it is our responsibility to make sure that our interviewers are highly trained, that they have continuing education, that they are privy to the most recent literature and training, and, you know, all of the recent developments in forensic interviewing.

So our interviewers can interview a child as young as two and a half depending on their verbal skills all the way up to the oldest person we interviewed was a case through The Arc of Aurora, a 64‑year‑old woman when intellectual and developmental disabilities.

We follow sort of what we call a relaxed protocol in how we interview people. There is a certain method to how we do it. But we do make exceptions and accommodations for individual needs.

For instance, for younger children we understand that they cannot sit in a chair and talk one‑on‑one and they need to be moving around. That is something that we take into account when interviewing young children.

By the same token we understand some folks may need language assistance, they may need their advocate in the room with them when talking about individuals with intellectual and developmental disabilities. It is our responsibility when conducting a forensic interview to make sure we have all of the information before the victim walks into the interview room so we can help them have the best interview experience possible and we as child abuse professionals on the other hand can get the most information we can get.

So it really is only through that kind of partnership with our local organization that we were able to actually gain this kind of insight, gain this kind of expertise and be able to do these interviews effectively. It has been a tremendous boom for us to accommodate those victims. Our abiding principle is we never turn a victim away. We never want to turn a victim away because they are over 18, or because they have an intellectual and developmental disability, or because of any other circumstance.

But we also don't want to conduct an interview that would be in appropriate. So by having this partnership we are able to balance those two competing concerns.

I think that about covers what I want to talk about so I will turn it over it Darla unless I am missing something and I expect Darla will tell me if I am.

>> Carole: I think it is my turn. This is Carole. Can you hear me?

I am with the victim service unit of the Aurora police department and I am pleased to be a part of this conversation. We have made so much progress, I think, originally what we faced on these issues was overwhelming and seemed in surmountable. It felt like any time we met with the victim with an attempt to take a report we certainly were probably not getting the information that we needed to move it forward within the system and most definitely ‑‑ dignity and respect without that intention are what ‑‑ I think we realize the most powerful thing to recognize from the law enforcement perspective is the very disability that makes these victims vulnerable also presents the barriers within the system for us to move forward in taking the information. From the law enforcement officer, the first responding co‑officer and getting enough information to move on to detective and from an advocacy perspective to advocate that victim's voice is heard throughout the system. We are getting little notice here ‑‑ hold on.

So I think one of the things that we were trying to overcome were the credibility and capacity issues that we have decided can be reduced in training and awareness with the officers. So we have taken on that responsibility as a law enforcement agency that we from the very front end and point of contact we have to set the tone.

We have worked hard to convey that it can be overwhelming to the officers. The more we talk about it, the more exposed they are to this population, the more comfortable they become. I would say we have been at it about eight years and I think we are getting there. We have seen progress and we have formed in the Aurora police department a special victim unit it is going to include the investigations of these cases as well as our elder abuse cases which currently is state‑mandated reporting on elder abuse and as of July in 2016 we will have state mandated reporting on people with intellectual disabilities. We are trying to prepare.

The biggest lesson we have learned is as hard as we try, not one entity of the collaboration with make a difference without the other and the expertise brought to the table with ideas I don't think any of us would have considered alone. The fact we pulled through with the hearsay exception gave us all a little more commitment. When we talk about victim's right and we talk about underserved populations this is actually number one in my book in the number of cases that move forward and access to justice for these victims is much, much lower than it should be. We have obviously to make that commitment, I think, we also have decided that training certain units, and certain groups of responding officers has made the impact they become a resource for other officers. This is really how we are making a difference within our patrol and with the frontline officers is having access to asking questions and with the assistance of The Arc of Aurora we have created videos that every officer has had the opportunity to view and access that and test their knowledge about this and also what do I do, and what if. The biggest lessons I think they have learned and express to us is just slow it down. In the world of law enforcement that is not necessarily how they operate so that has taken shifting of gears.

I think we noticed that the interactions with The Arc of Aurora and other agencies and other ‑‑ just metro wide the support we bring for one another made a difference in moving this forward.

>> Darla: We are doing the technical slide. This is Darla and I will try to close it out with a couple technical points.

One question that might be asked is why is this relevant to people with intellectual and developmental disabilities and I think you heard great reasons from the presenters.

I want to talk about how they are categorized. They are categorized with crimes against the people. They are crimes committed against the person as an assault, three times higher, sexual assault 11 times higher and robbery is 13 times higher. The reason those crimes against the person are so much higher and people with intellectual and developmental disabilities are more vulnerable and perpetrators think they can get away with it and often times nay do. They get away with it because law enforcement and prosecutors are challenged with how to make sure the victim is seen as credible. These crimes are often he said/she said witness expectations.

I think the hearsay exception allows if the judge recognizes it, and the jury sees the taped forensic interview and I think you heard why it is important to use people who are specifically trained and make sure they don't ask leading questions. It is not as if you and I could get in front of the camera with the victim and have a discussion and that be introduced. That is not the type of video. We are talking about trained professionals who would sit on the stand and say this is my background, experience, and why I think what this victim has provided is credible to the best of their capacity.

So I think that is why it makes the difference. I think you have heard a little bit about why we in our community have been so happy to work collaboratively together.

Strategies to replicate. It is important to recognize we knew each other before this discussion. We knew each other from training, discussions and we trusted each other. If you want to replicate the first part is use some of the great work coming out of The Arc west to reach out to law enforcement, district attorneys, community at large, and say can we talk about certain things?

Can we educate you about the population?

Can we talk about incident and prevalence?

Are you experiencing crimes that are committed but frustrated by the lack of prosecution?

There are lots of reasons to reach out. You probably have more in common than you recognize. Cross training is critical.

So the first part is to real look at a collaborative effort and make sure you identify specifically and deliberately who you want to participate in that collaboration. I know a few years back, gene from here and myself and Leigh Ann went around the country and we talked about how to create that collaborative. So you know there are tools to do that. The one thing about the collaborative discussion that is critical is to make sure the people at the table can make the decision to go forward on the next step.

Training is one thing. But if you are going to look at replicating the efforts we had you have to have a group at the table who has the authority to say let's move forward with a piece of legislation.

The other piece is identifying an appropriate legislation. We were lucky that representative fields from Aurora have a strong victim background and understand the issue of victimization and were happy to carry the legislation. What representative Fields brought to the discussion was a strong respect with law enforcement and the prosecuting community on a state‑wide level. She had carried bills for them and had had connections to reach out.

This was a local discussion but when representative Fields was willing to carry the legislation, and it was drafted, she had her own connection to reach out to law enforcement and prosecution lobbying community to get their buy‑in. Probably something none of us at the local level had.

So again when looking at the coalition and you have the team and the team is comfortable with moving forward with something like a hearsay exception and you get that legislature, having somebody with the strong victim background and strong relationships is critical.

The other thing we thought that was really important was to make sure the discussion wasn't just about people with intellectual and developmental disabilities but involve people victims of crimes and their family who were willing to testify and speak about their experience because that is who we were talking whose lives needed to be changed and needed to know they have access to justice. Specifically we had a couple folks ‑‑ audio cut out ‑‑ who came forward and said we, our family member or we have been a victim and we want to talk about that and this is the last part of the formula. Make sure you have the opportunity to involve the press and do so deliberately. This process involved someone managing behind the scenes. That was my role telling folks you will go first and you second. But I was reaching out to the press behind the scenes saying this is compelling, these stories are compelling, and this information is compelling. We had that /KPOERPBT starting the outreach.

We had strong opposition. Not a lot of vocal public opposition but the defense bar had a stronghold on the legislative committee we were going to be presenting to. It was a huge battle. We would one person testify against the bill and ten people testify in support of the bill but the defense bar had been really strategic in behind the scenes lobbying. Having the press at the event made this a hot and public issue. I think if we had not had the press involved we might have seen the bill die and us need to come back another time. Don't underestimate opposition and even opposition that will not publically talk about it but show up at the end.

I wanted to give you the opportunity to look at more information. We kept a Google site open passing house bill 1085 and you can go to the Google site and it will give you the pieces of news story coming out about the bill, the fact sheet and the actual legislation. With that, I think we are close to our 30 minutes and will hang around and look forward to having an opportunity to answer your questions. Thank you so much.

>> Thank you, Darla. Maggie, Diana, Carole, we appreciate you guys and your great presentation. Just a reminder before we get to the next presentation that there will be a question and answer section at the end of the session so please be typing in your questions in the Q&A box or the question box. I will turn it over to Patti Saylor and Heather Sachs. Patti Saylor is the proud mother of three adult children and has been an advocate for most of her life. In 1987, shortly after Ethan was born Patti founded FRIENDS ‑‑ the family resource information and education resource network for Down syndrome. She is a registered nurse and eventually earned a Master's in special education from John Hopkins University. She has served on numerous work groups, committees and boards all dealing with the effort to increase awareness and acceptance of individuals with intellectual and developmental disabilities. Patti is currently the owner of Health Link LLC that provides nursing case management for adults with disabilities who live in their own home and self-direct their other than services with the support of significant people in their lives. Patti and her family were and continue to be tireless advocates for their beloved son, Ethan. She started a four-hour training on intellectual and developmental disabilities for police recruits in Maryland Heather Sachs is the Vice President of Advocacy and Public Policy, National Down Syndrome Society and spearheads all policies. She is a national leader in coordinate the passage of state achieving a better life to establish a saving mechanism for people with disabilities and is working with legislatures, financial leaders and state treasurer's office on design. She has a decade of experience doing advocacy work in the disabilities community. She received her BA from the University of Pennsylvania and her J D from the University of Columbia. She lives in Maryland with her husband and three children one of whom happens to have Down syndrome. Now, I am turning it over to Patti and Heather.

>> I am the mom of Ethan Saylor and that is one of my greatest accomplishments along with my other two children. Most of you know the story but let me tell you. On January 12th my son Ethan was attending a movie and he liked the movie a lot and didn't want to leave. He didn't have a ticket to the second showing. So the theater manager called the security who happens to be the off‑duty law enforcement officers. In their attempt to encourage Ethan to leave, you know, we believe that they did not truly understand or value him. It escalated quickly to their use of force to physically remove him. He lost his life on the floor of that movie theater from the medical examiner's report showed affixation. That was the first tragedy we experienced and felt devastated and something needed to be done.

So what happened?

We go to the grassroots advocacy ‑‑ I happen to be well connected to a lot of advocates and parents with disabilities, not just Down syndrome. Immediately my friends and colleagues wanted to get together to say what can we do to make sure this doesn't happen again. There was a movement across the country that was fueled by the outrage parents and advocates felt of how could this happen. We formed the Ethan Saylor work group. It was the very first name was the restraint work group because we knew he died because he was restrained. And my friends' pulled that group together and we pulled in people from our state slowly that wanted to be involved. This was purely voluntary and self-advocates and leading self-advocates in the state were involved.

We began to formulate our goals and they were non‑negotiable which would be police training that included self‑advocates as involved members of the train. The training would be cross disability and not disability‑specific. We felt there needed to be a mandate so this actually happened. We continued to meet to formulate our plan of action. This again was voluntary and people motivated out of tragedy and many people that met did know Ethan and certainly knew me.

So during that time that Ethan's law group began meeting the social media outrage grew and grew. We were getting support from all over the world actually. My daughter at that point started a change.org petition. Our initial call was for the governor of Maryland to launch an investigation. We did not feel Ethan's death was investigated properly. That he was not given ‑‑ it was not given enough attention. There was certainly a grand jury hearing. The officers were not indicted on any criminal charges and the officers were not even placed on administrative leave or had any consequences at the time. The initial push was an investigation.

My daughter's petition garnered almost 400,000 signatures within Maryland and across the country. We went to Annapolis to present this hard copy petition to the governor and with that we made enough noise he granted us a meeting.

He met with my family and felt compelled to do something. We didn't feel he could authorize an investigation because there was investigations going on and we were told there was a Department of Justice investigation.

What he did was to issue an ex executive order and that named Ethan and what happened to him. This executive order established the commission for the protective community inclusion of people with intellectual and developmental disabilities. The governor asked Tim shiver of the Special Olympics if he would chair the commission and Tim contacted me asking if that was okay and he said yes.

The commission was made up of people from law enforcement, the disability community and state advocates and other officials. They worked tirelessly together. It was beautiful to watch this collaboration of people who had a central goal of making something different. The head of the state police at that time told me that when he heard of Ethan's death he knew he had to do something about this. That something had to change and people would not be at risk. And so the commission did great work and the training subcommittee of this particular commission came up with recommendations.

I think there will be a link to the commission if you want to see the minutes and meeting recommendations and such.

During that year‑long, about a year and a half work of that commission, through your collaboration with law enforcement we came to realize the state has a police training commission. I believe there is a type of entity in every state similar. The police training commission sets the standards for all police training in the state and working with this commission, I am sorry the police commission, they asked us if we would not do the legislative route but could get what we wanted with training and inclusion of self-advocates if we worked to implement training objectives and if the police commission adopted those training objectives they would in fact be mandatory in the yearly and annual training requirements for officers in the state.

We did work with them and through the regulatory process the Maryland police commission adopted training objectives. The first focus was an easier one and that is to focus on the cadets in the academy. A captive audience. They know how many cadets and trainings there are going to be. They could implement that fairly easily and quickly. So January of 2015 the mandates for the training objectives around interacting with people with intellectual and training disabilities went into effect for the academy. We have 19 police academy in Maryland and each one had to figure out how they would implement that. Part of the governor's association was working on building that. We have been together with many people doing training to put another thing we thought applied in Maryland.

We designed an eight‑hour training for the academy level. That has been ‑‑ audio cutting out ‑‑ that has been happening for over a year now. The second piece is regulatory times. As of this past October, October of '15, the Maryland police training commission adopted mandatory objectives of a four‑hour training be implemented for all officers in service over the next year. That became effective January of 2016.

So as of very recently, the in service trainings going on. The thing that is very exciting about what we are doing here in Maryland is from the first meeting of Ethan's law group, a group of all colleagues and friends who were in pain, started with the theme that nothing would happen without advocates. We were able to see during the work of the commission, watch lights go off in law enforcement's personal head about how this actually worked and that you know self-advocates were valuable and had great input and could in fact participate at co‑trainers. They were skeptical but agreed to go along with us and we saw how they learned and understood and now they are very much advocates as well that self‑advocacy involved in all of training.

It became painfully aware there is no infrastructure for preparing, supporting and paying self‑advocates who are interested in this line of work to be co‑trainers. That brought us to the need to build the workforce and I will turn it over to Heather so she can talk about how we went the legislative tract on that need. Thanks. Heather, are you ready?

>> Heather: Yes, thank you, Patti. Hello, everyone.

As Patti explained, you know, it became apparent that we were not going to have to introduce a bill to man date law enforcement training. We were lucky enough the law enforcement officials participating saw the value in this and put the training in place without legislation. But we needed a legislation to ensure there was a training mechanism for those self‑advocates.

Initially the bill that was drafted and we started advocating for and this was in Maryland was going to form an Ethan Saylor center for training self‑advocate self-educators. The idea was it would actually be a geographical location in a Maryland university center on a campus, you know, it would have staff. It would be a training center. Unfortunately, though, it became pretty clear that we were not going to believe able to get the funding and infrastructure for that. So as often happens, during the legislative process, especially state legislative process when the sessions are short, is we had to scale back the bill. That is my number one piece of advice. Even though you cannot get what you are originally going for you take what you can get, as long as it is an improvement, and you can come back for more.

We scaled back the bill so what was formed by the bill and that will be on the next slide was the Ethan Saylor alliance for self‑educators. It is a framework and program one from the state department of disabilities that will provide training mechanisms for self‑advocates as educators. A lot will be done in the local communities. The idea is when a local police agency or you know first responder wants to do this type of training they would engage a self-advocate from their own community and not someone from across the state because it is important they make those personal connections with the advocates in their own community.

So, you know, the bill changed as it went through the process as it often does. We had to identify legislative sponsors. In our case because Ethan's county happened in Fredrick county Maryland we went to the Fredrick county delegations first. They were very supportive. This happened in their backyard and you know, they knew Patti and she was a constituent and this was important to them and they led it. It was important to us to get the entire Fredrick country delegation on board which we did.

If you don't have that type of geographic connection I would recommend looking for connections ‑‑ I remember we had a meeting with, you know, a staffer for one of the Maryland delegates and it turned out she had a nephew with down syndrome and we never knew that. If you can put your feelers out in the community and see who has direct ties to the disabilities community where this will be most impact full for them. It is important to get many supporters.

There was a group of alliances around the bill. We made sure it was cross effort even though led by the Down syndrome community but it was important to include the autism community and others. The training should not be disability‑specific.

It is important to have self‑advocate participation in the meetings, hearing and testimony. The self‑advocate voice is the most powerful voice. It became very important to engage the advocacy leaders on local, state and national levels. So, you know, for example, for the Down syndrome community the local affiliate groups, a state level advocacy group, and then the national Down syndrome society and national Down syndrome Congress were also very supportive. Through The Arc they were supportive through this legislation ‑‑ the Maryland Arc as well. This should hit all levels of a particular group.

It is very important to enlist the help of law enforcement and first responders in advocating for the bill. It is not enough they are just going to say okay we will not block this bill and that we see the value to it. It became very important that where possible, we had law enforcement officers go with us to meetings with delegates. We had them testify at the hearings and say that, you know, they need this bill. They want to do this training. They want to utilize self‑advocates in meaningful roles but don't know how and this bill would give them the tools and resources to do that.

As I said, there is a picture observation our bill signing. It is a little squished. But the bill passed last year and it was the Ethan Saylor alliance for self‑educators. It has been established in the government arm with the department of disability and that is a cabinet level position in Maryland. The central premise is nothing about us, without us. They are participating in co‑leaders of training. As Patti mentioned there is a great curriculum that has been developed for this. The Saylor alliance has been recently funded and has been meeting and planning all of this infrastructure.

The great thing is the self‑advocates will be compensated for their time. This is not a volunteer position. This is something they will make money doing as they are providing a very valuable service for the community.

After the bill passed, you know, our work was clearly not done. We have continued to advocate for implementation of the bill. It took the governor a while to fund it actually. Unfortunately he only had funded the first year, not five, as requested. But the funding that he did give was enough to start it up. I believe it was $2500. It was a challenge because people that served on the commission for the effective inclusion of individuals with intellectual disabilities were not automatically rolled over on to the Saylor alliance board.

So you had some experienced people on the Saylor alliance board that were on the commission but you had quite a few new people as well and they need to be educated on the topic and best practices and there is always time to get people up to speed.

Another thing that you can do to make sure something like this implemented after it passes it to scrutinize the local training program. This actually could tell you in a certain state whether or not you could need to bring such type of legislation. The self-advocates must play a key role in these training programs and it would be helpful to suggest best practices and I will talk about that in a minute because best practices are being developed now.

It is great to assess and collect data. I know that is difficult. How do you define success?

I think something that is telling with the interviews with law enforcement folks and how they are handling, you know, certain situations when they encounter people with disabilities. Also in the disability community, it is definitely becoming pretty, you know, common place in Maryland to see law enforcement officials routinely attend group events such as the body walk and public awareness. It is making those key relationships which I think are improving interactions in addition to a formalized training program. It is helpful to expand the concept to other states. National Down syndrome society is in the process of developing a tool kit to bring this type of legislation into other states. Please reach out to me if you would like those resources. I am sure we can work with The Arc on this. They have probably done a lot of work in this area as well regarding developing tool kits. I know they have done a lot in the law enforcement training area. It is important to continue advocacy at a national level.

I am happy to report the Department of Justice reached out and they are in a process of forming a whole work group to develop a best practices training program for law enforcement officials and first responders to interact with the disability community. They have pooled in a lot of stakeholders including the law enforcement voice and self‑advocate voice which is so important. I anticipate these resources will be ready sometime by the summer or fall and I think it will be great to have a program endorsed by the DOJ and give to localities who have not done any of this training and they are overwhelmed and don't know where to start. Look for that on the horizon.

With that I will send it back to Ashley and I would be happy to answer any questions.

>> Thank you so much, Heather and Patti. I will open it up for questions. Put your questions in the Q&A box. We have a few questions already. Presenters, I am just going to put the question out there and if you have an answer you can un‑mute yourself and answer. The first question is for the Colorado team. Does the definition of development disability in Colorado include those with FASD and with the process be cruised on a defendant with similar problems?

>> Heather: Could you repeat that?

>> Not a problem. Does the definition of development disability in Colorado include those with FASD and can this process be used on behalf of a defend with similar problems?

>> Heather: In defense of a case as opposed to the individual being a victim I am going to have our legal person answer that. Regarding the definition, I would say Colorado recognizes two ways that a development disability is manifested or identified. One has to do with an IQ and the other primarily has to do with activities daily living and capacity to function in that realm. Most people with FAS or FASD I think would qualify. I will have Maggie answer about using it as defense as opposed to prosecuting a case.

>> Maggie: In any case we prosecute; we have to establish not only ‑‑ audio cutting out ‑‑ the active but we have to establish the mental state. Many of crimes we have been talking, the sex crimes and mental state in Colorado is knowingly. So the question of whether or not a defendant knowingly committed a particular act would be a question that we would probably flesh out long before the case got to a jury. Most often, I will see, and you know, I have to confess not a lot of experience with FAS but when a defendant has a particular cognitive limitation sometimes the defense might raise competency and there is a whole host of statutory that come into play. We are entitled to have them evaluated. We had a contested competency hearing just yesterday. So sure, FAS could bear on our ability to file the case and go forward to the end of the case.

>> I think the question is would a hearsay exception and the forensic interview be admissible or used to support a defense and I don't believe the way it was passed in Colorado it would provide that level of support.

>> I didn't understand that. This is for the victim or someone who has witnessed a crime.

>> Okay. Great. Thank you so much. The next question is what happens when a person with an intellectual or developmental disability who is non‑verbal is engaged with the criminal justice system?

Are their provisions for allowing the person to peek with augmented communication like an iPad or something like that?

>> Darla: This is the gang from Colorado. Absolutely. I think Diana spoke a little about the accommodations used during the forensic interview so whatever is necessary to allow the individual to give voice to what they would like to share and what they feel is relevant is actively used at least in respect to the hearsay exception. You know, The Arc also works with people who are alleged to have committed crimes so The Arc of Aurora would reach out to local law enforcement to support that accommodation as well.

>> Okay. Great. Thank you so much.

>> Diana: I could to second what Darla said. We have done forensic interviews with folks who need to use augmentative equipment. It is unusual but we have been able to work it out.

>> Thank you. The next question is I believe for either team so whoever wants to jump in here can. While it is great that Maryland law enforcement changed from within can we rely on such cooperation from jurisdiction to jurisdiction or state to state?

We need laws and rules with case enforcement and consequences. How do we go about that when it seems everyone is against us?

Anyone want to take that one?

Don't forget to un‑mute yourself.

>> Darla: Sure. Carole, do you want to jump in?

Carole is our law enforcement representative so we will put her on the spot.

>> Carole: Well, I think that I can only speak from our experience, but I do see the challenges in this. From my perspective I am not sure it is as much against the issues or the victims but not having the tools or the awareness or training or maybe even knowing the responsibility we have. In our state we have a victim's right act that mandates us to accommodate victims and treat them with respect regardless of disability. That is one of the motivators. But I actually think this requires patience and I don't think it is something one round of training can impact. I think it has to be continuous. I am hoping what we will see in Colorado with the mandated reporting is collaborative within law enforcement agencies that share training in what is most effective and working. We are all trying trial and error right now.

>> Okay. Thank you.

>> I have to see from the beginning of the early work law; this is Patti, and the early positions of people on the governor's commission. We clearly and strongly wanted mandates to force people to do what we thought they wanted to do. What we realized over time is through relationship with these folks and having self-advocates involved in building those relationships that is what softened the hearts of law enforcement they wanted the training and better relationships. We didn't have to take them kicking and screaming. I want everyone to know there is where all of the advocates were coming from. We were geared up for the we are going to have to make them do this with legislative efforts that had teeth in them. Through going toward people and personal interactions we found we didn't need to do that and they asked us if we would not and to trust them. So we had to trust both sides going forward. We did have a good outcome. It may not be that easy in other states but it is worth a try to build relationships and go forward.

>> Great. Thank you, Patti. Another question for Patti actually. How many self-advocates has the Ethan Saylor alliance been able to recruit?

And how many are needed to effectively implement the objectives?

Heather, feel free to jump in.

>> The alliance itself has not trained anyone. It has only been in existence ‑‑ the money became only available in the summer. So informally around the state many people are being trained and many self‑advocates are participating in local training in a very organic way and the local Arcs have been helpful. We got held up with bureaucratic red tape. It is still a new initiative and expect the alliance will be recruiting this summer and preparing folks. So it has been slow to roll out because of, you know, bureaucratic red tape. It is like birthing a baby I feel like. We are getting ready and it will take off and people are getting ready for advocates to come out of the alliances.

>> Leigh Ann: This is Leigh Ann and I want comment. Patti I want to thank you for speaking today. It is a great situation that everything that is going on in Maryland is paralleling what we are doing here at the national level with the National Center on Criminal Justice & Disability pause as many of you know the justice training we have been piloting for the past two years and seeing how these two movements are coming together. We have been working with the national Down syndrome society and Patti and really making sure our efforts are really joining together into one cause so that we can get out the training as much as possible to law enforcement, but we also are looking at training lawyers, as well as victim advocates.

I am just really excited about this opportunity to continue working on these issues and as Patti said much of this is a grassroots effort. We cannot legislator attitude change. Both at the national center of criminal justice and disability and through our chapter network and stories like Patti's we are really able to see change happening at the national level in small ways and growing with the national effort. Any questions you have about the pathways to justice training you can also contact us regarding that. We make sure, too, that self‑advocates are also involved with any training that happens. That is critical. We have seen that, too, that the more we have self‑advocates involved the more you see attitude change. It has been my experience in the training we provided that officer’s ‑‑ audio cut out ‑‑ so it is matter of providing them with the tools and ability to do that. I want to get that in there because we want to give a balanced approach and come together as a team whether it is the national or local and state level to address these issues.

>> Absolutely. Thank you so much, Leigh Ann. What documents must be presented to provide evidence of a person's disability status?

How can a person who is a victim or one being charged communicate they have a disability?

Sometimes it is not apparent.

>> Maggie: This is Maggie. That is a great question. It is how we go about proving that someone has a disability is really on a case‑by‑case bases. In the case that I was discussing earlier that led to the processing and passage of this new law our victim has Down syndrome. So the statute has a whole laundry list of definitions under title 27 in Colorado and so if someone is receiving certain benefits, if they have certain physical qualities, there is a whole laundry list. In the case of our victim, we actually also put on an expert to talk a little bit about her intellectual functioning and how she processed information because at the end of the day the way we had charged the case we had to prove to the jury he had over born her will. It wasn't the traditional knock down forcible sexual assault but what it took for her will to be overborne as an individual who has down syndrome and intellectual and developmental disabilities was a different matter of have you overborne as someone who didn't have the same limitations. We have to think about that. For us, I have to prove that in Colorado. So I will tell you there have been times I have charged a simple sex assault as opposed to charging a sex assault to an at‑risk adult. I didn't want to open the door to having all of the victim's medical records become an issue with the jury and more importantly that the defense could exploit. We look at it on a case‑by‑case basis. I mentioned the original case because the Down syndrome was easy to prove and a no‑brainer we could get the box checked without going into the medical records. We fight like crazy to keep med‑color records from the courtroom and are usually almost always successful with that.

But there might be come a time when we need to resort to some medical records to prove certain limitations. I know it a long question. But the answer is you have to look at your particular victim and determine the disability as it relates to the statute and brainstorm how you will establish it. As a prosecutor we do everything we can to protect information from being disclosed that can be abused by the defense.

>> Carole: From the law enforcement perspective I know they have to consider the same statute but I think a key point in the initial stages is also how that impacts communication style which is where we used experts within the disabilities community to help us establish the appropriate form of communication in making sure we are giving every opportunity for ‑‑ every opportunity for the victim to be able to communicate and us to be able to establish what the disability is in order to move it on to the courts. I think, again, that whole collaborative piece is not something that is going to just be obvious by interviewing. You will need to do some work to really establish that.

>> Thank you, Maggie and Carole. The last question, we only has a couple minutes left, quickly, how do you balance the confidentiality of the person and the ADA when reporting the case?

Anyone have information on that?

>> I don't want to be redundant but it is a delicate line we walk. In many of the cases we try the defense is going to get nowhere near doctor/patient/therapeutic records unless there is an injury and they can those records. But we don't allow the defense to slay open our victim's personal lives in the courtroom. But the fact is, if we are needing to establish because of statute or I'm trying to charge a higher felony, if I need to establish a cognitive or intellectual disability, we may have to disclose portions of the record. I guess my answer for everybody out there is you want to work with your prosecution team and you don't willy‑nilly disclose but cite it out and look for the court to be the gatekeeper in order to limit, severely limit, to the defense what is brought in. It is like ‑‑ where I am trying to get a close circuit TV for a child, for example, I might have a treating Psychiatrist come in and talk about how communication in front of the defendant would make hardship on the child and they would not be able to communicate in front of the jury.

>> Thank you so much. We don't have any time for any more questions. I am making sure to forward questions we do have to the presenters. Please, please, please fill out the survey that will pop up when you close WebEx. If you are interested in our legislative database go to our website please: Thearc.org/NCCJD. You can find the legislative under resources. Our next Webinar is focused on issues attorneys face in representing clients with ID D. We appreciate you being here. Thank you for the presenters and have a good day.

[Event ended]